

Islamic Law Strategy in the Context of National Law: Harmonization and Adaptatio

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Abstrak: Di Indonesia, hukum Islam memiliki peran yang signifikan dalam berbagai aspek kehidupan masyarakat, meskipun berada dalam kerangka sistem hukum nasional yang berbasis pada hukum positif. Dengan keberagaman norma yang ada, penerapan hukum Islam dalam konteks hukum nasional sering kali menimbulkan tantangan dalam hal integrasi dan harmonisasi. Oleh karena itu, penting untuk memahami strategi yang dapat diterapkan dalam mengakomodasi nilai-nilai hukum Islam dalam kerangka hukum nasional yang plural. Artikel ini bertujuan untuk menganalisis dan mengidentifikasi strategi-strategi yang dapat diterapkan untuk mengintegrasikan prinsip-prinsip hukum Islam dalam sistem hukum nasional Indonesia. Pendekatan yang digunakan dalam penelitian ini adalah pendekatan kualitatif dengan menggunakan analisis literatur dan kajian doktrinal terhadap teks-teks hukum, baik hukum Islam maupun hukum positif di Indonesia. Selain itu, dilakukan analisis terhadap penerapan hukum Islam dalam berbagai bidang hukum di Indonesia, seperti hukum keluarga, peradilan agama, dan hukum pidana. Hasil penelitian menunjukkan bahwa integrasi hukum Islam dalam sistem hukum nasional Indonesia memerlukan pendekatan yang lebih kontekstual dan adaptif, dengan mempertimbangkan nilai-nilai lokal dan keberagaman masyarakat. Beberapa strategi yang dapat diterapkan antara lain adalah melalui harmonisasi norma hukum Islam dengan hukum positif, peningkatan pemahaman tentang pluralitas hukum, serta penyesuaian implementasi hukum Islam agar sesuai dengan prinsip-prinsip keadilan sosial dalam masyarakat Indonesia.

Kata Kunci : *Hukum Islam, Hukum Nasional, Integrasi Hukum, Pluralitas Hukum, Strategi Hukum*

Abstract: *In Indonesia, Islamic law plays a significant role in various aspects of societal life, despite being within the framework of the national legal system based on positive law. Given the diversity of existing norms, the implementation of Islamic law within the context of national law often presents challenges in terms of integration and harmonization. Therefore, it is important to understand strategies that can be applied to accommodate the values of Islamic law within the plural national legal framework. This article aims to analyze and identify strategies that can be applied to integrate the principles of Islamic law into Indonesia's national legal system. The approach used in this study is qualitative, utilizing literature analysis and doctrinal study of legal texts, both Islamic law and positive law in Indonesia. Additionally, an analysis is conducted on the application of Islamic law in various legal fields in Indonesia, such as family law, religious courts, and criminal law. The findings indicate that the integration of Islamic law into Indonesia's national legal system requires a more contextual and adaptive approach, considering local values and societal diversity. Several strategies that can be implemented include harmonizing Islamic legal norms with positive law, enhancing the understanding of legal pluralism, and adjusting the implementation of Islamic law to align with the principles of social justice in Indonesian society.*

Keywords: *Islamic Law, National Law, Legal Integration, Legal Pluralism, Legal Strategy.*

Introduction

Indonesia, as a country with a Muslim majority population, has a complex relationship between Islamic law and the national legal system based on positive law¹. In the Indonesian national legal system, Islamic law is not only applied in certain aspects, such as family law or religious courts, but also has a significant influence on the social and cultural life of society². However, despite the important role of Islamic law, its application within the context of national law often presents challenges, both in terms of integration, harmonization, and adaptation to the principles of positive law in force³.

On one hand, Islamic law holds an important position in the life of society, especially in the religious, social, and family aspects⁴. On the other hand, Indonesia adheres to a legal system based on positive law, which refers to laws enacted by the state⁵. These two legal systems—Islamic law and positive law—often interact in the everyday life of Indonesian society, both in government, the judiciary, and in personal matters such as marriage, inheritance, and contracts⁶.

However, the interaction between Islamic law and positive law does not always proceed smoothly⁷. Some of the issues that arise include the incompatibility of Islamic law norms with the positive law in force in Indonesia, as well as differing views on the application of Islamic law in the national judicial system⁸. For example, Islamic law applied in religious courts is often limited to

¹ Hestinur Hidayah and Ashif Az Zafi, "Transformasi Hukum Islam Pada Masyarakat Di Indonesia," *Reformasi Hukum* 24, no. 2 (2020): 114–29, <https://doi.org/10.46257/jrh.v24i2.118>.

² Arif Sugitanata and Suud Sarim Karimullah, "Implementasi Hukum Keluarga Islam Pada Undang-Undang Perkawinan Di Indonesia Mengenai Hak Memilih Pasangan Bagi Perempuan," *Setara: Jurnal Studi Gender Dan Anak* 05, no. 01 (2023): 1–14, <https://garuda.kemdikbud.go.id/documents/detail/3449825>.

³ Soeparmono Soeparmono, Abdul rahman R, and Kurniati Kurniati, "Perkembangan Hukum Islam Sejak Masa Kerajaan Islam Di Indonesia Hingga Era Reformasi," *Jurnal Al-Ahkam: Jurnal Hukum Pidana Islam* (journal.uiad.ac.id, 2022), <https://doi.org/10.47435/al-ahkam.v4i2.1076>.

⁴ Adi Nur Rohman, "Hukum Islam Dan Perubahan Sosial: Dinamisasi Perkembangan Metode Ijtihad Muhammadiyah," *Syaksia: Jurnal Hukum Perdata Islam* 22, no. 1 (2021): 85–98, <https://doi.org/10.37035/syaksia.v22i1.4877>.

⁵ Syafrudin Makmur, "Budaya Hukum Dalam Masyarakat Multikultural," *SALAM: Jurnal Sosial Dan Budaya Syar-I* 2, no. 2 (2015), <https://doi.org/10.15408/sjsbs.v2i2.2387>.

⁶ Nandang Fathurrahman, "Perbandingan Kewajiban Nafkah Perspektif Hukum Islam Dan Hukum Positif Di Indonesia," *Al-Ahwal Al-Syaksyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 2 (2022): 193–206, <https://doi.org/10.15575/as.v3i2.20160>.

⁷ Gress Selly, "Integrasi Syariah Dalam Peraturan Daerah Indonesia: Dialektika Filsafat Hukum Islam Profetik Dan Paradigma Thomas Kuhn," *Constitution Journal* 2, no. 1 (2023): 1–16, <https://doi.org/10.35719/constitution.v2i1.43>; Mawardi Mawardi, Misra Netti, and Muh Rizki, "Tinjauan Sejarah: Transformasi Hukum Keluarga Islam Indonesia," *Innovative: Journal Of Social Science Research* 4, no. 2 (2024): 315–24, <http://j-innovative.org/index.php/Innovative/article/view/9457>.

⁸ Bagir Manan, Ali Abdurahman, and Mei Susanto, "Pembangunan Hukum Nasional Yang Religius: Konsepsi Dan Tantangan Dalam Negara Berdasarkan Pancasila," *Jurnal Bina Mulia Hukum* 5, no. 2 (2021): 176–95, <https://doi.org/10.23920/jbmh.v5i2.303>; D Sumanto, "Konflik Sosial Masyarakat Dalam Perspektif Sosiologi Hukum Islam. Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi, 3 (1), 83–97," 2020.

certain aspects, such as marriage and divorce, while other aspects still need to refer to the positive law that applies in Indonesia. This creates challenges in establishing a legal system that is integrative, fair, and responsive to the needs of a plural society⁹.

The diversity of norms and legal systems in Indonesia, including customary law, national law, and Islamic law, creates a pluralistic legal framework¹⁰. In this context, the application of Islamic law cannot be seen separately from the national legal system, but must be pursued with an effort to find common ground between the principles contained in both legal systems¹¹. Therefore, it is essential to understand and formulate the right strategy to integrate Islamic law into the national legal system while considering local values and the diversity within Indonesian society¹².

The cultural, religious, and customary diversity in Indonesia also exacerbates the challenge of integrating Islamic law into the national legal system. Indonesia's society, composed of various ethnicities, religions, and beliefs, requires the application of law that is sensitive to the pluralism of values and norms¹³. Therefore, it is crucial to develop strategies that can accommodate Islamic law values within a plural and inclusive national legal framework¹⁴.

Thus, the strategy of Islamic law in the context of national law becomes increasingly relevant to discuss, given the emerging challenges, such as the potential conflict between Islamic law and positive law, as well as issues related to the application of Islamic law principles within the framework of a modern and democratic rule of law. Therefore, this article aims to analyze various strategies that can be implemented to accommodate the principles of Islamic law into the national

⁹ Abdurrahman, "HARMONISASI HUKUM ADAT DAN HUKUM ISLAM BAGI PENGEMBANGAN HUKUM NASIONAL DI INDONESIA Oleh : Abdurrahman*," *Al-Maslahah Jurnal Hukum Da Pranata Sosial Islam* 3, no. 6 (2015): 233–46, <https://jurnal.staialhidayahbogor.ac.id/index.php/am/article/view/151>.

¹⁰ Lutfi Rahmatullah, "Eksistensi Hukum Islam Di Tengah Keragaman Budaya Indonesia (Perspektif Baru Sejarah Hukum Islam Dalam Bingkai Dialektika Nilai-Nilai Syariah Dan Budaya)," *Al-Manahij: Jurnal Kajian Hukum Islam* 10, no. 1 (2017): 63–82, <https://doi.org/10.24090/mnh.v10i1.917>.

¹¹ Winardi Winardi, "Eksistensi Dan Kedudukan Hukum Adat Dalam Pergumulan Politik Hukum Nasional," *Widya Yuridika* (download.garuda.kemdikbud.go.id, 2020), <https://doi.org/10.31328/wy.v3i1.1364>.

¹² Ahmad Fuadi, "Studi Islam (Islam Eksklusif Dan Inklusif)," *Ö Jurnal Wabana Inovasi* (penelitian.uisu.ac.id, 2018), <https://penelitian.uisu.ac.id/wp-content/uploads/2018/10/7.-Ahmad-Fuadi-Hemawati.pdf>.

¹³ Raja Ritonga and Amhar Maulana Harahap, "Harmoni Dalam Kewarisan: Solusi Damai Untuk Mencegah Konflik Keluarga," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 10, no. 1 (2024): 117–33, <https://doi.org/10.58401/faqih.v10i1.1282>; Fahmi Ardi, Muhammad Mabur, and Viyan Hendra E. A., "Sejarah Dan Kekuatan Hukum Perdata Islam Di Indonesia," *Law & Justice Review Journal* 1, no. 1 (2021): 7–11, <https://doi.org/10.11594/lrj.01.01.02>.

¹⁴ S Aisyah, "Reformasi Pemikiran Hukum Islam Prof. DR. Rifyal Ka'bah, MA," *Repository.Uinjkt.Ac.Id*, n.d., <https://repository.uinjkt.ac.id/dspace/handle/123456789/32915>; J M Yusuf, N Yuslem, and D Tanjung, "The Inclusion of Ulema in the Application of Islam Nusantara Law for the Aceh Community," *Al-Risalah: Forum ...*, 2023, <https://shariajournals-uinjambi.ac.id/index.php/al-risalah/article/view/1428>.

legal system of Indonesia, while paying attention to contextualization and adaptation to align with the existing social and legal dynamics.

Method

This research uses a qualitative approach with a literature analysis method to examine the implementation of Islamic law within Indonesia's national legal system. Data for the study are gathered through library research. The study then delves into the texts of Islamic law and positive law that are in force in Indonesia, as well as other related legal documents such as regulations and fatwas. The analysis is doctrinal in nature, aiming to identify the challenges and opportunities in integrating Islamic law with positive law, particularly in the fields of family law, religious courts, and criminal law.

Results and Discussion

Challenges of Integrating Islamic Law within Indonesia's National Legal System

The integration of Islamic law into Indonesia's national legal system faces primary challenges stemming from the fundamental differences between the two¹⁵. Islamic law, derived from religious teachings, emphasizes moral and ethical values that govern the lives of Muslims, while the positive law in Indonesia is secular and based on political consensus and regulations that apply to all Indonesian citizens regardless of religion¹⁶. This discrepancy creates difficulties in harmonizing the two systems, particularly when Islamic legal norms conflict with positive law principles, such as gender equality or individual rights. This results in a dilemma on how to reconcile them within a single cohesive legal system without sacrificing fundamental principles¹⁷.

Indonesia's diversity further exacerbates the challenges of integrating Islamic law. Indonesia is not only a Muslim-majority country but also has a highly diverse non-Muslim community¹⁸. In such a context, the implementation of Islamic law must respect the cultural, religious, and belief diversities present in society. If Islamic law is applied rigidly within the national legal system, it may create social tensions between Muslim and non-Muslim groups. Therefore, a

¹⁵ Bani Syarif Maula, "Upaya Integrasi Keilmuan Hukum Islam Dan Hukum Umum Di Fakultas Syari'ah IAIN Purwokerto" (eprints.uinsaizu.ac.id, 2016), [https://eprints.uinsaizu.ac.id/1388/1/Bani Syarif Maula%2C M.Ag_UPAYA INTEGRASI KEILMUAN HUKUM ISLAM DAN HUKUM UMUM DI FAKULTAS SYARI'AH INSTITUT AGAMA ISLAM NEGERI PURWOKERTO.pdf](https://eprints.uinsaizu.ac.id/1388/1/Bani_Syarif_Maula%2C_M.Ag_UPAYA_INTEGRASI_KEILMUAN_HUKUM_ISLAM_DAN_HUKUM_UMUM_DI_FAKULTAS_SYARI'AH_INSTITUT_AGAMA_ISLAM_NEGERI_PURWOKERTO.pdf).

¹⁶ Ajub Ishak, "Posisi Hukum Islam Dalam Hukum Nasional Di Indonesia," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 4, no. 1 (2017): 57, <https://doi.org/10.24252/al-qadau.v4i1.5753>.

¹⁷ Jurnal Teologi et al., "Kearifan Lokal Sebagai Wahana Dalam Membangun Toleransi Umat Beragama Di Tapanuli Utara," *IMMANUEL: Jurnal Teologi Dan Pendidikan Kristen* 2, no. 1 (2021): 1–10.

¹⁸ Ria Yuni Lestari et al., "Indahnya Keberagaman Dan Pentingnya Toleransi Dalam Masyarakat Multikultural Di Masjid Agung Banten Lama," *JLEB: Journal of Law, Education and Business* 2, no. 1 (2024): 623–32, <https://doi.org/10.57235/jleb.v2i1.1950>.

flexible approach is needed so that Islamic law is not only accepted by Muslims but also does not lead to injustice or discrimination against other groups with different perspectives¹⁹.

Human rights and gender equality issues are sensitive topics in the process of integrating Islamic law²⁰. Some Islamic legal norms, especially in matters such as inheritance rights and the position of women, often differ from the equality principles enshrined in Indonesia's constitution. For example, under Islamic law, the distribution of inheritance for women is often smaller than for men, which contradicts the equality principle within Indonesia's positive law²¹. As a result, integrating Islamic law into the national legal system must be carried out by considering the social and cultural context of Indonesia, which increasingly demands equality in rights and obligations, particularly regarding women's rights and other vulnerable groups²².

Additionally, challenges arise from both public understanding and law enforcement officers' comprehension of the existing legal pluralism. Many people, both in the general public and among law enforcement officials, still lack a complete understanding of the importance of accepting a diverse legal system. This lack of understanding often leads to confusion in the implementation of Islamic law within positive law's scope. The situation is further complicated by the lack of coordination between institutions handling Islamic law, such as religious courts, and other national judicial institutions. For the integration of Islamic law to proceed smoothly, a deeper understanding of legal pluralism in Indonesia is required, along with the development of clear mechanisms to address these differences within the broader national legal context²³.

¹⁹ Lisma, "Internalisasi Nilai Hukum Islam Dalam Rancangan KUHP Di Indonesia (Studi Terhadap Tindak Pidana Perzinahan Dalam KUHP Dan RKUHP)," *EKSPOSE: Jurnal Penelitian Hukum Dan Pendidikan* 18, no. 1 (2019): 721–33.

²⁰ Diya Ul Akmal, Eka Pratiwi, and Anisa Sulistiani, "Keadilan Dalam Sistem Hukum Nasional Berdasarkan Perspektif Gender," *LEX LIBRUM: Jurnal Ilmu Hukum* (researchgate.net, 2021), https://www.researchgate.net/profile/Diya-Ul-Akmal/publication/356998167_KEADILAN_DALAM_SISTEM_HUKUM_NASIONAL_BERDASARKAN_PERSPEKTIF_GENDER/links/61b7602dfd2cbd720099aa70/KEADILAN-DALAM-SISTEM-HUKUM-NASIONAL-BERDASARKAN-PERSPEKTIF-GENDER.pdf.

²¹ Aga Natalis, "Reformasi Hukum Dalam Rangka Mewujudkan Keadilan Bagi Perempuan: Telaah Feminist Jurisprudence," *Crepido* 2, no. 1 (2020): 11–23, <https://doi.org/10.14710/crepido.2.1.11-23>.

²² Ramdan Wagianto and Moh. Sa'i Affan, "Reviewing Hak-Hak Perempuan Dalam Reformasi Hukum Keluarga Islam Di Indonesia Dan Tunisia," *Ay-Syari'ab: Jurnal Hukum Islam* 8, no. 2 (2022): 81–102, <https://doi.org/10.55210/assyariah.v8i2.825>.

²³ Sartika Intaning Pradhani, "Pendekatan Pluralisme Hukum Dalam Studi Hukum Adat: Interaksi Hukum Adat Dengan Hukum Nasional Dan Internasional," *Undang: Jurnal Hukum* 4, no. 1 (2021): 81–124, <https://doi.org/10.22437/ujh.4.1.81-124>.

Strategy for Harmonizing Islamic Law Norms with Positive Law

Harmonizing the norms of Islamic law with positive law in Indonesia requires a careful and contextual approach²⁴. One of the main challenges in this harmonization is maintaining a balance between the religious principles contained in Islamic law and the principles of human rights and equality enshrined in positive law. Adjusting Islamic law to fit positive law must be done cautiously to avoid creating tensions between the two legal systems. When Islamic law is applied rigidly, without considering Indonesia's plural social reality, the potential for conflicts between groups increases, especially on sensitive issues such as women's rights and minority protection²⁵.

The importance of dialogue among policymakers, scholars, and legal practitioners in formulating legislation that accommodates Islamic values is crucial for achieving effective harmonization. Without collaboration between these various stakeholders, the harmonization process may be hindered by differing perceptions about what boundaries are acceptable to society. Cooperation between the government and religious leaders allows for the creation of laws that not only accommodate the principles of Islamic law but also uphold the values of justice and equality contained in positive law, ensuring that the laws are accepted by all layers of society²⁶.

However, despite the importance of dialogue among stakeholders, another challenge lies in the lack of understanding of pluralism in law among the public and legal officials. Raising awareness about legal pluralism in Indonesia is necessary to prevent society and legal officers from viewing Islamic law as something separate or in conflict with the state law. Proper socialization about how Islamic law can be applied within the broader national legal context will help foster a more inclusive understanding, ensuring smoother implementation. Educating the public about legal pluralism will also reduce resistance to integrating Islamic law into the national legal system²⁷.

The enforcement of fair and transparent justice is also a key factor in the success of harmonizing Islamic law norms with positive law. To ensure that the application of Islamic law does not lead to injustice or discrimination, it is crucial that Indonesia's judicial system maintain its

²⁴ Lisma, "Internalisasi Nilai Hukum Islam Dalam Rancangan KUHP Di Indonesia (Studi Terhadap Tindak Pidana Perzinahan Dalam KUHP Dan RKUHP)."

²⁵ Jaenuddin Usep Saepullaah, "Transformasi Hukum Keluarga Islam Dalam Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak," *Lp2M* 3, no. 1 (2018): 10–27, <https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf>.

²⁶ Gunawan Santoso Vera Dwi Apriliani and Murtini Etik Acep, "Menghargai Perbedaan: Membangun Masyarakat Multikultural," *Jurnal Pendidikan Transformatif (Jupetra)* 02, no. 02 (2023): 425–32, <https://jupetra.org/index.php/jpt/article/view/295>.

²⁷ Yonna Beatrix Salamor Deassy J.A. Hehanussa, "Membangun Kesadaran Hukum Perempuan Dan Anak Dalam Penanggulangan Tindak Pidana Kekerasan Seksual," *Keberlanjutan Program Pemberdayaan Masyarakat Era Revolusi Industri 4.0*, 2019, 292–97, <https://ejournal.atmajaya.ac.id/index.php/sabdamas/article/view/1019>.

independence and guarantee that every individual is treated fairly, regardless of their religious or cultural background. With a fair judicial system, the implementation of Islamic legal norms can proceed more effectively without creating social tension between different community groups. Transparent law enforcement will strengthen the integration of Islamic law within Indonesia's plural legal system²⁸.

Furthermore, the harmonization and adaptation of Islamic law within the national legal system of Indonesia is inevitable, given the religious, cultural, and legal diversity present in the country. The conceptualization of adaptive Islamic law is essential to ensure that Islamic law remains relevant and effective in Indonesia's plural society. Adjusting Islamic legal norms, whether in family law, inheritance, marriage, or women's rights, must be done while preserving the fundamental values of Islamic teachings, but also considering social developments and the principles of justice present in positive law. Through a contextual and inclusive approach, Islamic law can be integrated into the national legal system without sacrificing the values upheld by Indonesian society. The role of religious courts, which handle specific legal matters like divorce and inheritance, is crucial in maintaining the balance between religious and state law. Therefore, constructive dialogue between the government, scholars, and legal practitioners is key in formulating laws that accommodate both systems.

Conceptualizing Adaptive Islamic Law in the Context of Legal Pluralism in Indonesia

Indonesia, as a country with significant ethnic, religious, and cultural diversity, requires a legal system that accommodates this pluralism. In this context, Islamic law must be conceptualized adaptively, meaning that it should be adjusted to the social and cultural realities present in Indonesia²⁹. This adaptive conceptualization of Islamic law requires that it evolve with the times, without compromising its fundamental values. One example of this is the application of Islamic law in family law matters, such as marriage and inheritance, which have been adapted to the social justice principles and evolving gender equality in Indonesia³⁰.

²⁸ E Elyani, "Implikasi Etika Dalam Penegakan Hukum Tantangan Dan Solusi," *Jurnal Ilmu Hukum, Ilmu Sosial Dan Ekonomi*, 2023, <https://loddosinstitute.org/journal/index.php/ateku/article/view/74>.

²⁹ Edi Rosman, "Paradigma Sosiologi Hukum Keluarga Islam Di Indonesia (Rekonstruksi Paradigma Integratif Kritis)," *Al-Manahij: Jurnal Kajian Hukum Islam* (download.garuda.kemdikbud.go.id, 1970), <https://doi.org/10.24090/mnh.v9i1.511>.

³⁰ Afiq Budiawan, "MODERNISASI HUKUM KELUARGA Di INDONESIA: Studi Terhadap Diskursus Dan Legislasi Perjanjian Perkawinan Islam Indonesia," *Madania: Jurnal Ilmu-Ilmu Keislaman* (download.garuda.kemdikbud.go.id, 2018), <http://download.garuda.kemdikbud.go.id/article.php?article=729290&val=11323&title=MODERNISASI HUKUM KELUARGA di INDONESIA Studi terhadap Diskursus dan Legislasi Perjanjian Perkawinan Islam Indonesia>.

A concrete example of the adaptation of Islamic law to Indonesia's legal pluralism can be found in the country's religious court system. The religious courts, which handle matters related to Islamic law, implement Islamic legal principles while considering Indonesia's diverse society. For instance, in the case of inheritance, Islamic law in Indonesia takes into account the division of inheritance as regulated in the Compilation of Islamic Law (KHI). However, the application of inheritance law can be adjusted to norms that emphasize fairness, as outlined in Law No. 1 of 1974 on Marriage, which allows for adjustments to Islamic inheritance law, particularly regarding women's rights³¹.

Additionally, the regulation of marriage offers another example of how Islamic law can adapt to Indonesia's plural social conditions. While Islamic law sets certain requirements for marriage, such as the role of the guardian (*wali*), dowry (*mahr*), and witnesses, marriage in Indonesia is also governed by state regulations that protect the rights of women and children. For example, the minimum age for marriage is regulated under Law No. 16 of 2019, amending Law No. 1 of 1974 on Marriage. Islamic law can adapt to these regulations while maintaining the broader values of social justice, without neglecting the core principles of religious teachings³².

The adaptive conceptualization of Islamic law also includes efforts to understand Indonesia's legal pluralism as an unavoidable reality. Indonesia operates under a dual legal system, with positive law applicable to all citizens, and religious law governing each religious group, including Islamic law for Muslims. Therefore, harmonization and adaptation between the two are necessary to avoid conflict between legal norms. In this regard, the role of the religious courts is essential in ensuring that the application of Islamic law proceeds without creating injustice for non-Muslim communities. For example, the application of Islamic law in divorce cases can differ depending on whether the parties involved are Muslim or non-Muslim, yet both should receive fair treatment within Indonesia's plural legal system³³.

The application of adaptive Islamic law must also consider universal principles in international law, such as human rights and gender equality. For instance, although Islamic law includes provisions on inheritance that differentiate between men and women, its application can be adjusted to align with broader principles of justice, in line with the social and legal developments

³¹ Hidayah and Zafi, "Transformasi Hukum Islam Pada Masyarakat Di Indonesia."

³² Nurhikmah Hairak H. Biga, "Sejarah Pembaruan Hukum Keluarga Islam Di Indonesia," *Al-Mizan* 13, no. 2 (2017): 185–203, <https://doi.org/10.30603/am.v13i2.876>.

³³ Nur Fauziah Laili and Moh. Rofqil Bazikh, "Metode Reformasi Hukum Keluarga Islam Di Dunia Muslim Perspektif Khoiruddin Nasution," *Jurnal Restorasi Hukum* 6, no. 1 (2023): 22, <https://doi.org/10.14421/jrh.v6i1.3028>.

in Indonesia. This adjustment could involve ensuring equal rights for women in various aspects of life, without undermining the essence of Islamic legal values. Therefore, it is essential to continue developing a better understanding of how Islamic law can be applied adaptively within the framework of Indonesia's plural legal system³⁴.

Moreover, the integration of religious principles and the needs of a plural society is crucial. Religious courts play a strategic role in handling cases related to Islamic law, while considering the social context and positive law in force. For example, in inheritance issues, Islamic law provides a different distribution between men and women, but with adjustments made in the Compilation of Islamic Law (KHI), principles of social justice can be achieved. These adjustments allow for more equal rights for women in the context of inheritance, in line with human rights and gender equality demands. This application of Islamic law also illustrates how religious law can adapt to the more progressive principles of state law³⁵.

The application of Islamic law in the context of marriage further reflects a contextual adaptation to legal pluralism. Although Islamic law has specific provisions regarding marriage, such as requirements for the guardian, dowry, and witnesses, in practice, it must adapt to state regulations that prioritize the protection of individual rights, particularly those of women and children. Law No. 16 of 2019, amending Law No. 1 of 1974 on Marriage, which sets the minimum age for marriage, is a clear example of how Islamic law can be adapted to ensure gender equality and the protection of children's rights, without compromising the essence of Islamic teachings. This adjustment indicates that Islamic law is not a rigid legal system, but one that can evolve with the social and legal developments in Indonesia.

One of the biggest challenges in applying Islamic law in Indonesia is understanding the pluralism of law that exists. Indonesia, as a country with a dual legal system, faces the need to harmonize religious law and state law to ensure both function fairly for all citizens. The religious courts, as institutions that handle Islamic legal matters, play a crucial role in ensuring that the application of Islamic law does not create injustice for non-Muslim groups. For example, in divorce cases, while Islamic law may have different provisions for Muslim individuals, the principle of justice must still be upheld. In this case, harmonization between religious law and positive law is

³⁴ Hasan C, "Transformasi Hukum Islam Ke Dalam Sistem Hukum Nasional," *Jurnal Mimbar Hukum* 13 (2002), <http://jurnal.untagsmg.ac.id/index.php/hdm/article/view/379>.

³⁵ Moh Khasan, "Prinsip-Prinsip Keadilan Hukum Dalam Asas Legalitas Hukum Pidana Islam," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* (academia.edu, 2017), <https://doi.org/10.33331/rechtsvinding.v6i1.133>; Ainun Najib, "Dialektika Politik Hukum Islam Dalam Pembangunan Sistem Hukum Nasional," *HUKMY: Jurnal Hukum* (journal.ibrahimy.ac.id, 2021), <https://doi.org/10.35316/hukmy.2021.v1i1.109-131>.

essential to prevent conflicts between norms that could undermine fairness in the national legal system.

Conclusion

The harmonization between Islamic law and positive law is crucial for creating an inclusive and just legal system. In this regard, dialogue between policymakers, religious scholars (ulama), and legal practitioners is necessary to formulate regulations that accommodate the principles of Islamic law while respecting the values of justice and human rights in positive law. With a better understanding of legal pluralism, Indonesian society can accept the application of Islamic law without causing tensions between different groups. Continuous adjustments to meet evolving needs and societal developments allow Islamic law to become a harmonious part of the national legal system, fostering social justice for all Indonesian citizens.

References

- Abdurrahman. "HARMONISASI HUKUM ADAT DAN HUKUM ISLAM BAGI PENGEMBANGAN HUKUM NASIONAL DI INDONESIA Oleh : Abdurrahman*." *Al Maslahah Jurnal Hukum Da Pranata Sosial Islam* 3, no. 6 (2015): 233–46. <https://jurnal.staialhidayahbogor.ac.id/index.php/am/article/view/151>.
- Aisyah, S. "Reformasi Pemikiran Hukum Islam Prof. DR. Rifyal Ka'bah, MA." *Repository.Uinjkt.Ac.Id*, n.d. <https://repository.uinjkt.ac.id/dspace/handle/123456789/32915>.
- Akmal, Diya Ul, Eka Pratiwi, and Anisa Sulistiani. "Keadilan Dalam Sistem Hukum Nasional Berdasarkan Perspektif Gender." *LEX LIBRUM : Jurnal Ilmu Hukum*. researchgate.net, 2021. https://www.researchgate.net/profile/Diya-Ul-Akmal/publication/356998167_KEADILAN_DALAM_SISTEM_HUKUM_NASIONAL_BERDASARKAN_PERSPEKTIF_GENDER/links/61b7602dfd2cbd720099aa70/KEADILAN-DALAM-SISTEM-HUKUM-NASIONAL-BERDASARKAN-PERSPEKTIF-GENDER.pdf.
- Ardi, Fahmi, Muhammad Mabur, and Viyan Hendra E. A. "Sejarah Dan Kekuatan Hukum Perdata Islam Di Indonesia." *Law & Justice Review Journal* 1, no. 1 (2021): 7–11. <https://doi.org/10.11594/lrjj.01.01.02>.
- Budiawan, Afiq. "MODERNISASI HUKUM KELUARGA Di INDONESIA: Studi Terhadap Diskursus Dan Legislasi Perjanjian Perkawinan Islam Indonesia." *Madania: Jurnal Ilmu-Ilmu Keislaman*. download.garuda.kemdikbud.go.id, 2018. http://download.garuda.kemdikbud.go.id/article.php?article=729290&val=11323&title=MODERNISASI_HUKUM_KELUARGA_di_INDONESIA_Study_terhadap_Diskursus_dan_Legislasi_Perjanjian_Perkawinan_Islam_Indonesia.
- C, Hasan. "Transformasi Hukum Islam Ke Dalam Sistem Hukum Nasional." *Jurnal Mimbar Hukum* 13 (2002). <http://jurnal.untagsmg.ac.id/index.php/hdm/article/view/379>.
- Deassy J.A. Hehanussa, Yonna Beatrix Salamor. "Membangun Kesadaran Hukum Perempuan Dan Anak Dalam Penanggulangan Tindak Pidana Kekerasan Seksual." *Keberlanjutan Program*

- Pemberdayaan Masyarakat Era Revolusi Industri 4.0*, 2019, 292–97.
<https://ejournal.atmajaya.ac.id/index.php/sabdamas/article/view/1019>.
- Elyani, E. “Implikasi Etika Dalam Penegakan Hukum Tantangan Dan Solusi.” *Jurnal Ilmu Hukum, Ilmu Sosial Dan Ekonomi*, 2023.
<https://loddosinstitute.org/journal/index.php/ateku/article/view/74>.
- Fathurrahman, Nandang. “Perbandingan Kewajiban Nafkah Perspektif Hukum Islam Dan Hukum Positif Di Indonesia.” *Al-Ahwal Al-Syakhsiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 2 (2022): 193–206. <https://doi.org/10.15575/as.v3i2.20160>.
- Fuadi, Ahmad. “Studi Islam (Islam Eksklusif Dan Inklusif).” *Ö Jurnal Wabana Inovasi*. penelitian.uisu.ac.id, 2018. <https://penelitian.uisu.ac.id/wp-content/uploads/2018/10/7.-Ahmad-Fuadi-Hemawati.pdf>.
- H. Biga, Nurhikmah Hairak. “Sejarah Pembaruan Hukum Keluarga Islam Di Indonesia.” *Al-Mizān* 13, no. 2 (2017): 185–203. <https://doi.org/10.30603/am.v13i2.876>.
- Hidayah, Hestnur, and Ashif Az Zafi. “Transformasi Hukum Islam Pada Masyarakat Di Indonesia.” *Reformasi Hukum* 24, no. 2 (2020): 114–29.
<https://doi.org/10.46257/jrh.v24i2.118>.
- Ishak, Ajub. “Posisi Hukum Islam Dalam Hukum Nasional Di Indonesia.” *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 4, no. 1 (2017): 57. <https://doi.org/10.24252/al-qadau.v4i1.5753>.
- Khasan, Moh. “Prinsip-Prinsip Keadilan Hukum Dalam Asas Legalitas Hukum Pidana Islam.” *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*. academia.edu, 2017.
<https://doi.org/10.33331/rechtsvinding.v6i1.133>.
- Laili, Nur Fauziyah, and Moh. Rofqil Bazikh. “Metode Reformasi Hukum Keluarga Islam Di Dunia Muslim Perspektif Khoiruddin Nasution.” *Jurnal Restorasi Hukum* 6, no. 1 (2023): 22.
<https://doi.org/10.14421/jrh.v6i1.3028>.
- Lestari, Ria Yuni, Rina Inayah, Mayang Arum Rahmanita, Dewi Widya Ningsih, Windi Hartati, Adam Andreansyah, Altharik Mubarak, Solu Nur Amaya, Shiva Steviana, and Albin Dwi Cahya. “Indahnya Keberagaman Dan Pentingnya Toleransi Dalam Masyarakat Multikultural Di Masjid Agung Banten Lama.” *JLEB: Journal of Law, Education and Business* 2, no. 1 (2024): 623–32. <https://doi.org/10.57235/jleb.v2i1.1950>.
- Lisma. “Internalisasi Nilai Hukum Islam Dalam Rancangan KUHP Di Indonesia (Studi Terhadap Tindak Pidana Perzinahan Dalam KUHP Dan RKUHP).” *EKSPOSE: Jurnal Penelitian Hukum Dan Pendidikan* 18, no. 1 (2019): 721–33.
- Makmur, Syafrudin. “Budaya Hukum Dalam Masyarakat Multikultural.” *SALAM: Jurnal Sosial Dan Budaya Syar-I* 2, no. 2 (2015). <https://doi.org/10.15408/sjsbs.v2i2.2387>.
- Manan, Bagir, Ali Abdurahman, and Mei Susanto. “Pembangunan Hukum Nasional Yang Religius: Konsepsi Dan Tantangan Dalam Negara Berdasarkan Pancasila.” *Jurnal Bina Mulia Hukum* 5, no. 2 (2021): 176–95. <https://doi.org/10.23920/jbmh.v5i2.303>.
- Maula, Bani Syarif. “Upaya Integrasi Keilmuan Hukum Islam Dan Hukum Umum Di Fakultas Syari’ah IAIN Purwokerto.” eprints.uinsaizu.ac.id, 2016.
[https://eprints.uinsaizu.ac.id/1388/1/Bani Syarif Maula%2C M.Ag_UPAYA INTEGRASI](https://eprints.uinsaizu.ac.id/1388/1/Bani%20Syarif%20Maula%20M.Ag_UPAYA_INTEGRASI)

KEILMUAN HUKUM ISLAM DAN HUKUM UMUM DI FAKULTAS SYARIAH
INSTITUT AGAMA ISLAM NEGERI PURWOKERTO.pdf.

- Mawardi, Mawardi, Misra Netti, and Muh Rizki. "Tinjauan Sejarah: Transformasi Hukum Keluarga Islam Indonesia." *Innovative: Journal Of Social Science Research* 4, no. 2 (2024): 315–24. <http://j-innovative.org/index.php/Innovative/article/view/9457>.
- Najib, Ainun. "Dialektika Politik Hukum Islam Dalam Pembangunan Sistem Hukum Nasional." *HUKMY : Jurnal Hukum*. journal.ibrahimy.ac.id, 2021. <https://doi.org/10.35316/hukmy.2021.v1i1.109-131>.
- Natalis, Aga. "Reformasi Hukum Dalam Rangka Mewujudkan Keadilan Bagi Perempuan: Telaah Feminist Jurisprudence." *Crepido* 2, no. 1 (2020): 11–23. <https://doi.org/10.14710/crepido.2.1.11-23>.
- Pradhani, Sartika Intaning. "Pendekatan Pluralisme Hukum Dalam Studi Hukum Adat: Interaksi Hukum Adat Dengan Hukum Nasional Dan Internasional." *Undang: Jurnal Hukum* 4, no. 1 (2021): 81–124. <https://doi.org/10.22437/ujh.4.1.81-124>.
- Rahmatullah, Lutfi. "Eksistensi Hukum Islam Di Tengah Keragaman Budaya Indonesia (Perspektif Baru Sejarah Hukum Islam Dalam Bingkai Dialektika Nilai-Nilai Syariah Dan Budaya)." *Al-Manabij: Jurnal Kajian Hukum Islam* 10, no. 1 (2017): 63–82. <https://doi.org/10.24090/mnh.v10i1.917>.
- Ramdan Wagianto, and Moh. Sa'i Affan. "Reviewing Hak-Hak Perempuan Dalam Reformasi Hukum Keluarga Islam Di Indonesia Dan Tunisia." *Ary-Syari'ah : Jurnal Hukum Islam* 8, no. 2 (2022): 81–102. <https://doi.org/10.55210/assyariah.v8i2.825>.
- Ritonga, Raja, and Amhar Maulana Harahap. "Harmoni Dalam Kewarisan: Solusi Damai Untuk Mencegah Konflik Keluarga." *El-Faqih : Jurnal Pemikiran Dan Hukum Islam* 10, no. 1 (2024): 117–33. <https://doi.org/10.58401/faqih.v10i1.1282>.
- Rohman, Adi Nur. "Hukum Islam Dan Perubahan Sosial: Dinamisasi Perkembangan Metode Ijtihad Muhammadiyah." *Syaksia : Jurnal Hukum Perdata Islam* 22, no. 1 (2021): 85–98. <https://doi.org/10.37035/syaksia.v22i1.4877>.
- Rosman, Edi. "Paradigma Sosiologi Hukum Keluarga Islam Di Indonesia (Rekonstruksi Paradigma Integratif Kritis)." *Al-Manabij: Jurnal Kajian Hukum Islam*. download.garuda.kemdikbud.go.id, 1970. <https://doi.org/10.24090/mnh.v9i1.511>.
- Selly, Gress. "Integrasi Syariah Dalam Peraturan Daerah Indonesia: Dialektika Filsafat Hukum Islam Profetik Dan Paradigma Thomas Kuhn." *Constitution Journal* 2, no. 1 (2023): 1–16. <https://doi.org/10.35719/constitution.v2i1.43>.
- Soeparmono, Soeparmono, Abdul rahman R, and Kurniati Kurniati. "Perkembangan Hukum Islam Sejak Masa Kerajaan Islam Di Indonesia Hingga Era Reformasi." *Jurnal Al-Ahkam: Jurnal Hukum Pidana Islam*. journal.uiad.ac.id, 2022. <https://doi.org/10.47435/al-ahkam.v4i2.1076>.
- Sugitanata, Arif, and Suud Sarim Karimullah. "Implementasi Hukum Keluarga Islam Pada Undang-Undang Perkawinan Di Indonesia Mengenai Hak Memilih Pasangan Bagi Perempuan." *Setara: Jurnal Studi Gender Dan Anak* 05, no. 01 (2023): 1–14. <https://garuda.kemdikbud.go.id/documents/detail/3449825>.
- Sumanto, D. "Konflik Sosial Masyarakat Dalam Perspektif Sosiologi Hukum Islam. Volksgeist:

Jurnal Ilmu Hukum Dan Konstitusi, 3 (1), 83–97,” 2020.

Teologi, Jurnal, Oloria Malau, Ratna Saragih, Rencan Carisma Marbun, Robinson Simanungkalit, and Melinda Siahaan. “Kearifan Lokal Sebagai Wahana Dalam Membangun Toleransi Umat Beragama Di Tapanuli Utara.” *IMMANUEL: Jurnal Teologi Dan Pendidikan Kristen* 2, no. 1 (2021): 1–10.

Usep Saepullaah, Jaenuddin. “Transformasi Hukum Keluarga Islam Dalam Undang-Undang Nomor 23 Tahun 2002 Tentang Perlindungan Anak.” *Lp2M* 3, no. 1 (2018): 10–27.
<https://medium.com/@arifwicaksanaa/pengertian-use-case-a7e576e1b6bf>.

Vera Dwi Apriliani, Gunawan Santoso, and Murtini Etik Acep. “Menghargai Perbedaan: Membangun Masyarakat Multikultural.” *Jurnal Pendidikan Transformatif (Jupetra)* 02, no. 02 (2023): 425–32. <https://jupetra.org/index.php/jpt/article/view/295>.

Winardi, Winardi. “Eksistensi Dan Kedudukan Hukum Adat Dalam Pergumulan Politik Hukum Nasional.” *Widya Yuridika*. download.garuda.kemdikbud.go.id, 2020.
<https://doi.org/10.31328/wy.v3i1.1364>.

Yusuf, J M, N Yuslem, and D Tanjung. “The Inclusion of Ulema in the Application of Islam Nusantara Law for the Aceh Community.” *Al-Risalah: Forum* ..., 2023.
<https://shariajournals-uinjambi.ac.id/index.php/al-risalah/article/view/1428>.